

2002**Net Operating Loss (NOL) Computation and NOL
and Disaster Loss Limitations — Corporations****3805Q**

Attach to your California tax return (Form 100, Form 100S, Form 100W, or Form 109).

Corporation name

California corporation number

During the year the corporation incurred the NOL, the corporation was a(n): ☐ C Corporation ☐ S Corporation☐ Exempt Organization ☐ Limited Liability Company (electing to be taxed as a corporation)

FEIN

If the corporation previously filed California tax returns under another corporate name, enter the corporation name and California corporation number:

Note: If the corporation is included in a combined report of a unitary group, see instructions, General Information C, Combined Reporting.**PART I Computation of current year NOL.** If you do not have a current year NOL, go to Part II.

| | | |
|--|-----------|--|
| 1 Net loss from Form 100, line 19; Form 100W, line 19; Form 100S, line 16; or Form 109, line 2. Enter as a positive number | 1 | |
| 2 2002 disaster loss from line 1. Enter as a positive number | 2 | |
| 3 Subtract line 2 from line 1. If zero or less, enter -0- and see instructions | 3 | |
| 4 a Enter the amount of the loss incurred by a new business included in line 3 | 4a | |
| b Enter the amount of the loss incurred by an eligible small business included in line 3 | 4b | |
| c Add line 4a and line 4b | 4c | |
| 5 Subtract line 4c from line 3. If zero, skip to line 7 | 5 | |
| 6 General NOL. Multiply line 5 by 60% (.60) | 6 | |
| 7 2002 NOL carryover. Add line 2, line 4c, and line 6. See instructions | 7 | |

PART II NOL carryover and disaster loss carryover limitations. See instructions.

| | | |
|--|--------------------------|--|
| 1 Net income (loss) – Enter the amount from Form 100, line 19; Form 100W, line 19; Form 100S, line 16 less line 17 (but not less than -0-); or Form 109, line 2 | (g) Available balance | |
|--|--------------------------|--|

Prior Year NOLs

| (a) Year of loss | (b) Code – See instructions for Part II, column (b) | (c) Type of NOL – See below | (d) Initial loss | (e) Carryover from 2001 | (f) Amount used in 2002 | | (h) Carryover to 2003 col. (e) - col. (f) |
|------------------------|---|-----------------------------------|---------------------|-------------------------------|-------------------------------|------------------|---|
| 2 | | DIS | | | | | |
| | | DIS | | | | | |
| | | DIS | | | | | |
| | | All Other Type | | | SUSPENDED | SUSPENDED | |

Current Year NOLs

| (a) Year of loss | (b) Code – See instructions for Part II, column (b) | (c) Type of NOL – See below | (d) Initial loss | (e) Carryover from 2001 | (f) Amount used in 2002 | (g) Amount used in 2003 | (h) Carryover to 2003 col. (d) - col. (f) |
|------------------------|---|-----------------------------------|---------------------|-------------------------------|-------------------------------|-------------------------------|---|
| 3 2002 | | DIS | | | | | col. (d) - col. (f) |
| 4 2002 | | | | | | | |
| 2002 | | | | | | | |
| 2002 | | | | | | | |
| 2002 | | | | | | | |

Type of NOL: General (GEN), New Business (NB), Eligible Small Business (ESB), Title 11 (T11), or Disaster (DIS).**PART III 2002 Disaster Loss deduction**

| | | |
|---|----------|--|
| 1 Total the amounts in Part II, column (f). Enter the total here and on Form 100, line 22; Form 100W, line 22; Form 100S, line 20; or Form 109, line 4 | 1 | |
|---|----------|--|

2002 Instructions for Form FTB 3805Q

Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2001**, and to the California Revenue and Taxation Code (R&TC).

What's New

For taxable years beginning in 2002 and 2003, California has suspended the Net Operating Loss (NOL) carryover deduction. Taxpayers may continue to compute and carryover an NOL during the suspension period. However, the deduction for disaster losses is not affected by the NOL suspension rules.

The carryover period for suspended losses is extended by two years for losses incurred before January 1, 2002, and by one year for losses incurred after January 1, 2002, and before January 1, 2003.

For taxable years beginning on or after January 1, 2002, the NOL carryover computation for the California taxable income of a nonresident or part-year resident is no longer limited by the amount of net operating loss from all sources. Only your California sourced income and losses are considered in determining if you have a California NOL. For more information, see form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations - Individuals, Estates, and Trusts.

General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2001. Therefore, California has conformed to the income tax changes made to the IRC by the federal Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), Surface Transportation Revenue Act of 1998 (Public Law 105-178), the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105-369), the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Public Law 106-519), the Consolidated Appropriations Act of 2001 (Public Law 106-554), and to technical corrections made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16). However, there are continuing differences between California and Federal law. California has not conformed to some of the law changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) or the federal Job Creation and Worker Assistance Act of 2002 (Public Law 107-147). **Note:** Fiscal year taxpayers are subject to California tax law as it conforms to federal law that is applicable for taxable years beginning prior to January 1, 2002.

The general NOL carryover percentage varies. For taxable years beginning on or after:

- January 1, 2000, and before January 1, 2002, 55% of the NOL may be carried forward;
- January 1, 2002, and before January 1, 2004, 60% of the NOL may be carried forward; and
- After January 1, 2004, 100% of the NOL may be carried forward.

Also, any NOL incurred in any taxable year beginning on or after January 1, 2000, may be carried forward for 10 years.

In 1998, the Franchise Tax Board (FTB) implemented the new principal business activity (PBA) code chart that is based on the North American Industry Classification System (NAICS) in the corporate tax booklets. However, the California R&TC still uses the Standard Industrial Codes (SIC) for purposes of the new business and eligible small business NOL.

A Purpose

Use form FTB 3805Q to figure the current year NOL and to limit NOL and disaster loss carryover deductions.

Note: Exempt trusts should use form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts.

The California NOL is figured the same way as the federal NOL, except that for California:

- An NOL may be carried over only to future years (no carrybacks are allowed); and
- The carryover period and the amount to be carried over differ from federal allowances.

Only a portion of the NOL may be eligible for carryover to future years because California has established different categories of NOL. See General Information F, Types of NOLs, for more information.

Note: If the corporation has a current year NOL under R&TC Section 24416.2, 24416.5, 24416.6, and 24416.7 (relating to Pierce's disease, EZ, LAMBRA, or TTA NOLs), the corporation **must elect** on its return for the taxable year in which the loss is incurred to carryover the loss either under that section or the loss under R&TC Section 24416 (relating to general NOLs). If the corporation elects to compute the NOL under R&TC Section 24416.1(c) (relating to Pierce's disease, EZ, LAMBRA, or TTA NOLs), the corporation must:

- Make the election in a statement attached to the original return; and
- Use the applicable Pierce's disease form or economic development area (EDA) form to calculate the NOL.

The election is irrevocable. Get form FTB 3805D, form FTB 3805Z, form FTB 3807, or form FTB 3809 for more information.

B Apportioning Corporations

The loss carryover for a corporation that apportions income is the amount of the corporation's loss, if any, after adding income or loss apportioned to California with income or loss allocable to California under Chapter 17 of the Corporation Tax Law. The loss carryover may be deducted from income of that corporation apportioned and allocable to California in subsequent years.

C Combined Reporting

Corporations that are members of a unitary group filing a single return must use intrastate apportionment, separately computing the loss carryover for each corporation in the group using its individual apportionment factors (R&TC Section 25108). Complete a separate form FTB 3805Q for **each** taxpayer included in the combined report. Attach the separate forms for each taxpayer member **behind** the combined form FTB 3805Q for all members.

Unlike the loss treatment for a federal consolidated return, a California loss carryover for one member in a combined report may not be applied to the income of another member included in the combined report. Get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report, for more information.

D Water's-Edge

For Water's-Edge taxpayers, R&TC Section 24416(c) imposes a limitation on the NOL deduction if the NOL is generated during a non-Water's-Edge tax year. The NOL carryover is limited to the lesser amount as re-determined by computing the income and factors of the original worldwide combined reporting group as if the Water's-Edge election had been in force for the year of the loss. If R&TC Section 24416(c) applies; the NOL carryover for each corporation may be decreased, but not increased.

E S Corporations

An S corporation is allowed to carry over a loss that is incurred during a year in which it has in effect a valid election to be treated as an S corporation. The loss is also separately calculated under the pass through rules and passed to the shareholders in the year incurred and is taken into account in determining each shareholder's NOL carryover, if any.

If a corporation changes from a C corporation to an S corporation, the loss incurred while the corporation was a C corporation may not be applied to offset income subject to the 1.5% tax imposed on an S corporation. However, losses incurred while the corpora-

tion was a C corporation may be applied against the built-in gains which are subject to tax. If the corporation incurred losses while it was a C corporation and an S corporation, and the S corporation is using C corporation losses to offset its built-in gains, the corporation must complete two forms FTB 3805Q and attach them to Form 100S, California S Corporation Franchise or Income Tax

Return. The unused losses incurred while the corporation was a C corporation are "unavailable" except as provided for above unless and until the S corporation reverts back to a C corporation or the carryover period expires. However, if an S corporation changes to a C corporation, any S corporation NOLs are lost.

F Types of NOLs

The table below shows the types of NOLs available, a description, and the percentages and carryover periods for each type of loss.

***Note:** The carryover period for suspended losses is extended by two years for losses incurred before January 1, 2002, and by one year for losses incurred after January 1, 2002, and before January 1, 2003.

| Type of NOL and Description | Taxable Year NOL Incurred | NOL Carried Over | Carryover* Period |
|--|---|---|---|
| General NOL (GEN) Available as a result of a loss incurred in years after 1986 and allowed under R&TC Section 24416. Does not include losses incurred from activities that qualify as a new business, an eligible small business, EZ, LARZ, LAMBRA, TTA, disaster loss, or Pierce's disease. | 2002-2003 2000-2001 1997-1999 1987-1996 | 60% 55% 50% None | 10 Years 10 Years 5 Years Expired |
| New Business NOL (NB) Get FTB Legal Ruling 96-5 for more information. Incurred by a trade or business that first commenced in California on or after January 1, 1994, during the first three years of business, 100% of an NOL may be carried over for ten years, but only to the extent of the net loss from the new business. The term "new business" also includes any taxpayer engaged in biopharmaceutical activities or other biotechnology activities described in Codes 2833 to 2836 of the SIC Manual. It also includes any taxpayer that has not received regulatory approval for any product from the United States Food and Drug Administration. See R&TC Section 24416(g)(7)(A) for more information. If a taxpayer's NOL exceeds the net loss from the new business, the excess may be carried over as a general NOL. If a taxpayer acquires assets of an existing trade or business which is doing business in California, the trade or business conducted by the taxpayer or related person is not a new business if the fair market value (FMV) of the acquired assets exceeds 20% of the FMV of the total assets of the trade or business conducted by the taxpayer or any related person. To determine whether the acquired assets exceed 20% of the total assets, include only the assets that continue to be used in the same trade or business activity as were used immediately prior to the acquisition. For this purpose, the same trade or business activity means the same division classification listed in the SIC Manual. If a taxpayer or related person has been engaged in a trade or business in California within the preceding 36 months and then starts an additional trade or business in California, the additional trade or business qualifies as a new business only if the activity is classified under a different division classification of the SIC Manual. Business activities conducted by the taxpayer or related persons wholly outside California are disregarded in determining whether the trade or business conducted within California is a new business. Related persons are defined in IRC Sections 267 or 318. | On or after 01/01/2000 Before 01/01/2000 Year of Business Year 1 Year 2 Year 3 | 100% For the first three years of business 100% 100% 100% | 10 Years 8 Years 7 Years 6 Years |
| Eligible Small Business (ESB) Get Legal Ruling 96-5 for more information. Incurred in a trade or business activity that has gross receipts, less returns and allowances, of less than \$1 million during the taxable year. 100% of an NOL may be carried over, but only to the extent of the net loss from the eligible small business. If a taxpayer's NOL exceeds the net loss from an eligible small business, the excess may be carried over as a general NOL. The corporation should use the same SIC Code division classifications described in the new business NOL section to determine what constitutes a trade or business activity. | On or after 01/01/2000 On or after 01/01/1994 and before 01/01/2000 | 100% 100% | 10 Years 5 Years |
| Title 11 Bankruptcy (T11) If the corporation is claiming an NOL carryover deduction under the provisions of R&TC Section 24416(e)(4)(A), enter the carryover amount on Part II, line 2. | 1987-1993 | 50% | 10 Years |
| Disaster Losses (DIS) Casualty losses in areas of California declared by the President of the United States or the Governor of California to be in a state of disaster. An election may be made under IRC Section 165(i) permitting the disaster loss to be taken against the previous year's income. If you made this election, see current year NOLs, Part II, line 3 and Internal Revenue Service form 4684 instructions for when the election must be filed. If special legislation is enacted under R&TC Section 24347.5 and the specified disaster loss exceeds income in the year it is claimed, 100% of the excess may be carried over for up to five taxable years. If any excess loss remains after the five- year period, 50% of that remaining loss may be carried over for up to 10 additional taxable years for losses occurred in any taxable year beginning before January 1, 2000, 55% for losses incurred in any taxable year beginning on or after January 1, 2000, and before January 1, 2002, 60% for losses incurred in any taxable year beginning on or after January 1, 2002, and before January 1, 2004 or 100% for losses incurred in any taxable year beginning on or after January 1, 2004. | See "Designated Disasters list" on next page. | 100% See instructions | First 5 Years 10 Years Thereafter |

Specific Line Instructions

Part I

Use Part I of this form to figure the current year NOL eligible for carryover.

Line 2 – If the corporation incurred a disaster loss during 2002, enter the amount of the loss on this line. Enter as a positive number.

Line 3 – If the amount is zero or less, the corporation does not have a current year general NOL. Go to Part II for computation of general NOL carryovers, the current year disaster loss, and carryover from disaster losses.

Line 7 – Go to Part II, Current Year NOLs, to record your 2002 NOL carryover to 2003. Complete columns (b), (c), (d), and (h) only, for each type of loss that you incurred.

If you have an eligible qualified new business or a small business and your NOL is greater than the amount of net loss from such a business, use the general NOL first. If you operate one or more new businesses and one or more eligible small businesses, determine the amount of the loss attributable to the new business(es), the small business(es), and the general NOL in the following manner. The NOL is first treated as a new business NOL to the extent of the loss from the new business. Any remaining NOL is then treated as an eligible small business NOL to the extent of the loss from the eligible small business. Any further remaining NOL is treated as an NOL under the general rules.

Part II

Use Part II to limit current year disaster loss to current year income and to record all of the corporation's loss carryover information.

If the corporation has losses from more than one source and/or more than one category, the corporation must compute the allowable NOL carryover for **each** loss separately.

When to use an NOL carryover

Use your NOLs in the order the disaster losses were incurred. There is no requirement to deduct NOL carryovers (if allowed) before disaster loss carryovers.

Prior Year NOLs

Column (a) – Enter the year the loss was incurred.

Column (b) – Enter the disaster code from the list below.

List of events that have been declared disasters:

| Year | Code | Event |
|------|------|---|
| 2000 | 21 | Napa County earthquake |
| 1999 | 20 | Wildfires and other related casualties* |
| 1999 | 19 | Winter Freeze 98/99 |
| 1998 | | |
| 1998 | 18 | El Niño 98 |
| 1997 | 17 | Disaster floods 96/97 |
| 1996 | | |
| 1996 | 16 | Firestorms 96* |
| 1995 | 15 | Storms, flooding, and other related casualties |
| 1994 | 14 | San Luis Obispo fire and other related casualties |
| 1994 | 13 | Los Angeles, Orange, and Ventura County earthquake and other related casualties |
| 1993 | 12 | Storms, floods, and other related casualties |
| 1992 | 11 | Wildfires and other related casualties in Calaveras and Shasta Counties |
| 1992 | 10 | San Bernardino County earthquake and other related casualties |
| 1992 | 9 | Riots, arson, and related casualties in California during April and May |
| 1992 | 8 | Humboldt County earthquake and related casualties |
| 1992 | 7 | Storms, floods, and other related casualties |
| 1991 | 6 | Oakland/Berkeley fire and other related casualties |
| 1990 | 5 | Santa Barbara fires and other related casualties |
| 1989 | 4 | Bay Area earthquake and other related casualties |
| 1987 | 3 | Forest fires, October earthquake, and other related casualties |
| 1986 | 2 | Storms, floods, and other related casualties |
| 1985 | 1 | Forest fires and related casualties occurring in California |

*Carryover period and percentage are limited to the NOL rules. No special legislation was enacted.

Column (d) – Enter 100% of the initial loss for the year given in column (a).

Column (e) – Enter the disaster loss carryover amount from the 2001 form FTB 3805Q, Part II, column (h).

Column (f) – Enter the smaller of the amount in column (e) or the amount in column (g) of the previous line.

Column (g) – Enter the result of subtracting column (f) from the balance in column (g) of the previous line.

Column (h) – Subtract the amount in column (f) from the amount in column (e) and enter the result.

Current Year NOLs

Note: As of the date of the publication of this form, no California designated disaster losses had occurred in tax year 2002. However, if a disaster loss occurs between the date of the publication and the end of the taxable year, please go to our Website at: www.ftb.ca.gov for an updated version of this form, which will include the information for any subsequent disaster loss and follow line 3 instructions.

Line 3 – Current year Disaster Loss

If you did not elect to deduct your current year disaster loss in the prior year:

- Column (a) and (c) are entered.
- In column (d), enter your 2002 disaster loss from Part I, line 2.
- In column (f), enter the disaster loss used in 2002.
- In column (h), enter column (d) less column (f).

If you elected to deduct your 2002 disaster loss on your 2001 tax return, and you have an excess amount to be carried over to 2002, enter the carryover amount in Part II, line 2, column (e). Use the Prior Year NOL instructions for column (a) through column (h) except:

- In column (a), enter 2002;
- In column (b), enter the new disaster code; and
- In column (d), enter the total disaster loss incurred in 2002.